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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/743,490 | 12/23/2003 | Nobuo Ichimura | 062709-0124 | 7811 |
| 22428 | 7590 | 03/25/2005 | EXAMINER | |
| FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007 | | | HOOK, JAMES F | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3754 | |

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,490

Applicant(s)

ICHIMURA ET AL.

Examiner

James F. Hook

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The amendment filed December 27, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the addition of language to claim 1 reciting "without increasing the pressure loss of each refrigerant" is new matter where the specification only supports high and low pressure refrigerant but nothing is directed to pressure loss, therefore such is considered new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For the reasons set forth above, the specification lacks any discussion of pressure loss or lack thereof in the context of the two flows, therefore such is new matter.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the pressure loss" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cochran. The patent to Cochran discloses the recited flexible hose where the use of such for refrigerant is considered merely intended use where Cochran recites that his hose can be used for any materials where it is undesirable to have leakage escape and it is old and known that refrigerant leakage is not desirable, comprising an inner hose 10 formed of a plurality of layers including a reinforcing layer 16 sandwiched between inner and outer layers 14,18, an outer hose covering the inner hose with a space and formed of a plurality of layers including a reinforcing layer 24, inner layer near 20 and outer layer 28, where the materials used for these layers are flexible and the layers can be formed of two or three layers, where the flow of material between the inner and the

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outer layer is at less of a pressure than the material inside the inner tube. With respect to the added limitation regarding pressure loss, there is no evidence provided by applicant that the structure of Cochran would change pressure loss in the system at all, and therefore such is considered inherent to the structure of Cochran to meet this limitation. Evidence to this inherency is given in the arguments below.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanley. The patent to Stanley discloses the recited flexible hose where the use of such for refrigerant is considered merely intended use, comprising an inner hose 26 formed of a plurality of layers including a reinforcing layer 27 sandwiched between inner and outer layers 25,29, an outer hose 12 covering the inner hose with a space, where the materials used for these layers are flexible, where the flow of material between the inner and the outer layer is at less of a pressure than the material inside the inner tube, the outer material is more flexible as suggested in the summary of the invention, a connector having the same structure as required by the dependent claims is provided including having a crimped portion which is the equivalent of a caulked portion. With respect to the added limitation regarding pressure loss, there is no evidence provided by applicant that the structure of Stanley would change pressure loss in the system at all, and therefore such is considered inherent to the structure of Stanley to meet this limitation. Evidence to this inherency is given in the arguments below.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Grantham. The patent to Grantham discloses the recited flexible hose where the use of such for refrigerant is considered merely intended use, comprising an inner hose 12

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formed of a plurality of layers including a reinforcing layer 52, an outer hose 16 covering the inner hose with a space, where the materials used for these layers are flexible, where the flow of material between the inner and the outer layer is at less of a pressure than the material inside the inner tube, the outer material is more flexible as suggested in column 2, lines 40-53, a connector having the same structure as required by the dependent claims is provided including having a crimped portion which is the equivalent of a caulked portion. With respect to the added limitation regarding pressure loss, there is no evidence provided by applicant that the structure of Grantham would change pressure loss in the system at all, and therefore such is considered inherent to the structure of Grantham to meet this limitation. Evidence to this inherency is given in the arguments below.

Response to Arguments

Applicant's arguments filed December 27, 2004 have been fully considered but they are not persuasive. Specifically, arguments are directed toward the references to Cochran, Stanley, and Grantham in general based upon the new matter added to the claim about pressure loss. However, it is noted in the rejections above that such is inherent to the system. Applicant argues that the structures of these references would create a pressure loss, such is not persuasive in light of evidence provided by Ulrich to the contrary. Specifically Ulrich establishes that in multilumen tubes having an inner cylindrical structure (near 31), and outer cylindrical wall 38, that such can be used as a return line, especially in refrigerant situations, and that such provides for high pressure fluid inside of the inner structure and allow for lower pressure gas to return through

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outer passages which can be spiraled or not, and such forms a plurality of passages similar to the teachings of Cochran and the uneven walls of Stanley and Grantham, and states that such would provide very small pressure loss as set forth in paragraph [0019] which provides evidence for the inherency of these structures not providing a pressure loss to the system. The reference to Ulrich also provides evidence that such tubes are capable of use with refrigerant where the tubes in Cochran, Stanley, and Grantham are designed to carry high pressure fluids inside the inner layer and return lower pressure gases in the outer passages the same as Ulrich which does so with refrigerant.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Ulrich, Inoue and Wagner disclosing state of the art spaced tubes.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

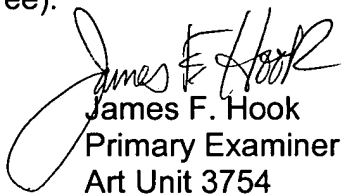
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH